

### **REMARKS**

Reconsideration and withdrawal of the rejections set forth in the Office Action of June 25, 2009, are respectfully requested in view of this amendment and the following reasons.

#### **Status of Claims**

Claims 1-26 stand rejected in the outstanding Office Action. By this amendment, claim 1 has been amended and claims 27-32 have been added. Accordingly, claims 1-32 are now pending in this application.

Claim 1 has been amended to clarify the antecedent basis for the recited “measurement device” and to require that the measurement device include measuring elements connected to a processing unit. Support for this amendment is found at least in paragraph [0047] of the specification and in Figure 2. It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132.

#### **Objections to the Drawings**

The Examiner objected to the drawings under 37 C.F.R. 1.83(a) for allegedly failing to show every feature of the invention specified in the claims. More specifically, the Examiner alleges that the drawings fail to show “the speaker, earpiece, and selection means for selecting the sport activity information on the receiving device.” Applicants respectfully traverse these objections.

The claimed “speaker” and “earpiece” are each examples of the feedback device 212 shown in Figure 2. As explained in paragraph [0050], feedback device 212 may provide audio feedback to the user such that “feedback device 212 refers e.g. to a speaker or an earpiece.” Accordingly, as the claimed “speaker” and “earpiece” are types of feedback devices 212 shown in Figure 2, the claimed features are shown the drawings and Applicants therefore respectfully request that this objection be withdrawn.

Regarding the alleged failure of the drawings to show a “selection means for selecting the sport activity information on the receiving device,” Applicants note that this feature is not claimed. Although Applicants do not concede that the drawings fail to disclose such a feature, a “selection means for selecting the sport activity information on the receiving device” is not claimed and therefore need not be shown in the drawings. Accordingly, Applicants respectfully request that this objection be withdrawn.

### **Objections to the Specification**

The Examiner objected to the phrase “device that can be attached e.g. to an arm of the user” specification for allegedly failing to “describe the means or mechanism as to how the device is attached to a user.” The Examiner states that “[a]n apparatus and/or method comprising the structure and means of how the device is attached to the arm of a user must be described and/or shown.” However, one example of such an apparatus is in fact described in the specification at least in par. [0055] where it is disclosed that a measurement device may be a wristwatch. Further, Applicants respectfully submit that the phrase “can be attached e.g. to an arm of the user” is self-explanatory and requires no further description. A person of ordinary skill in the art is aware of many different ways that a device can be attached to the arm of a user, for example an arm or wrist strap such as a wristwatch (see par. [0055]). Accordingly, Applicants respectfully request that this objection be withdrawn.

The Examiner also objected to the phrase “a measurement device 30...” because it is unclear whether “device 30 is the same as device 20” in Figure 2. Applicants have amended the specification to replace the reference to “device 30” with “device 20.” In light of this amendment, Applicants respectfully request that this objection be withdrawn.

### **Objections to the Claims**

The Examiner objected to claim 1 for reciting “a measurement device” on line 5 rather than “said measurement device” or “the measurement device.” Applicants have amended claim

1 to address this issue. Accordingly, Applicants respectfully request that this objection be withdrawn.

### **Rejections Under 35 U.S.C. §102**

Claims 1-26 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,013,007 issued to Root et al. (hereinafter “Root”). Applicants respectfully traverse these rejections.

To anticipate a claim, the cited prior art reference must teach “each and every element as set forth in the claim.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Further, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added). “Because the hallmark of anticipation is prior invention, the prior art reference ... must not only disclose all elements of the claim within the four corners of the document, but must also disclose those elements ‘arranged as in the claim.’” *Net Moneyin, Inc. v. Verisign, Inc.*, 545 F.3d 1359, No. 07-1565 slip. op. at 15 (Fed. Cir. 2008) (emphasis added), citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983).

The Examiner contends that Root discloses a measurement device (feedback device 101 in Root Figure 3) and a receiving device (GPS receiver 604 in Root Figure 6). Office Action pp. 5-6. However, feedback device 101 in Root includes GPS receiver 604. Root col. 5 lines 36-50. In the claims, by contrast, the measurement device and the receiving device are two different devices; the measurement device does not include the receiving device. For example, amended claim 1 requires “transmitting, with the measurement device, the measured sports activity information to a receiving device.” Anticipation requires the prior art reference to disclose the elements of the claim “arranged as in the claim.” In Root, the cited elements are not arranged as in claim 1 because the cited measurement device (feedback device 101) and receiving device

(GPS receiver 604) are part of the same device. Further, this difference in arrangement of elements is significant because by providing separate measurement and receiving devices, it is possible to use different receiving devices with one measurement device. Accordingly, Root does not anticipate claim 1.

Similarly, in independent claims 10, 13 and 19 the measurement device and the receiving device are two separate devices in communication with one another. Claim 10 is directed to a measurement device that has “a transmitter (26) configured to transmit sports activity information ... to at least one receiving device.” Claim 13 is directed to a receiving device that has “a receiver (208) configured to receive ... a transmission from the measurement device.” Claim 19 is directed to a system that has “a measurement device (20) comprising ... a transmitter (26) configured to transmit sports activity information during the sports activity to at least one receiving device.” In all of these independent claims, the measurement device and the receiving device are two separate devices. Root does not anticipate any of these claims because the feedback device 101 and GPS receiver 604 (respectively cited as being the claimed “measurement device” and “receiving device”) are part of the same device, and thus these elements are not arranged as in the independent claims. For this reason alone, all of the 35 U.S.C. §102(b) rejections under Root should be withdrawn.

Furthermore, the rejections should be withdrawn because Root does not disclose the claimed receiving device and measurement device at all. The cited GPS receiver 604 does not provide feedback to the user, unlike the receiving device of independent claims 1, 10 and 19, in which a receiving device separate from the measurement device produces feedback for the user. This is due to the fact that Root only uses an integrated measurement device that also provides feedback. Since Root already uses an integrated measurement device to provide feedback there is no reason to use a separate device for providing feedback, and thus Root actually teaches away from the present claims.

In summary, Root does not anticipate independent claims 1, 10, 13 and 19. Further, as claims 2-9, 10-12, 14-18 and 27-32 all depend from these independent claims, Root does not disclose every element of the remaining pending claims. Accordingly, in light of the foregoing claim amendments and arguments, Applicants respectfully request that all of the rejections of the pending claims be withdrawn.

**CONCLUSION**

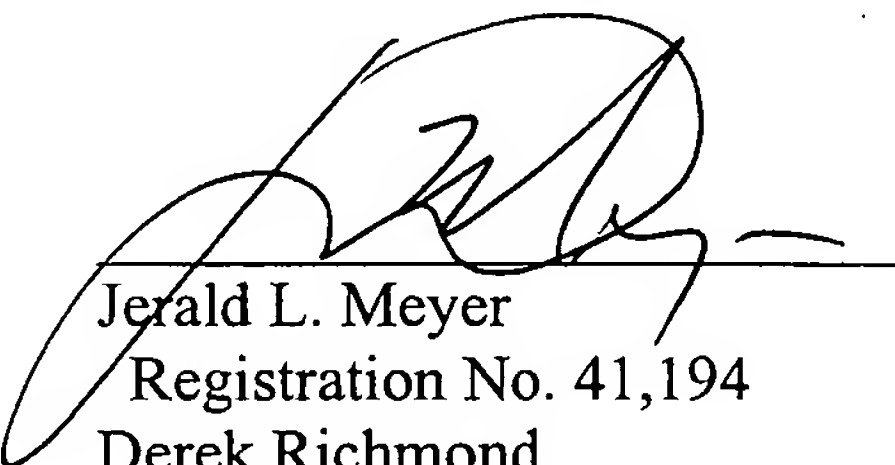
Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative at the number below to expedite prosecution.

Respectfully submitted,  
**THE NATH LAW GROUP**

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THE NATH LAW GROUP  
112 South West Street  
Alexandria, VA 22314-2891  
Tel: 703-548-6284  
Fax: 703-683-8396



Jerald L. Meyer  
Registration No. 41,194  
Derek Richmond  
Registration No. 45,771  
Brooks Gifford III  
Registration No. 58,929  
Customer No. 20529